

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202102795	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 10:15 PM	Location of Incident: Broadway and East 11th Street	Precinct: 06	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 04/28/2021 6:14 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Fri, 05/07/2021 9:35 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. SGT Iran Lopez-Maceda	01652	928666	SRG 2
3. PO Jakub Tarlecki		964310	112 PCT
4. PO Alfredo Alba	00145	933598	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Lee	19325	952975	SRG 2
2. SGT Elias Vazquez	03818	949762	SRG 2
3. LT Thomas Sheahan	00000	926109	SRG 2
4. Officers			
5. POM Giuseppe Gentile	09948	952773	SRG 2
6. DT3 Joe Bassat	00229	950054	NARCB BX
7. POM Algenis Pena	00846	953228	SRG 4
8. POM Luis Ortiz	01133	956142	SRG 2
9. DT3 Adam Conlin	04118	946871	F S S
10. POF Sandra Gonzalez	14838	961793	SRG 2
11. POM Bryan Rozanski	26377	948271	009 PCT
12. POM Geong Kim	11334	949167	111 PCT
13. CPT Julio Delgado	00000	918927	SRG 2

Officer(s)	Allegation	Investigator Recommendation
A. PO Jakub Tarlecki	Force: Police Officer Jakub Tarlecki struck an individual with a baton.	
B. An officer	Force: An officer used a chokehold against an individual.	
C. An officer	Force: An officer used physical force against an individual.	
D. SGT Iran Lopez-Maceda	Force: Sergeant Iran Lopez-Maceda used physical force against an individual.	
E. SGT Iran Lopez-Maceda	Discourtesy: Sergeant Iran Lopez-Maceda spoke discourteously to an individual.	

Officer(s)	Allegation	Investigator Recommendation
F. An officer	Discourtesy: An officer spoke discourteously to an individual.	
G.PO Alfredo Alba	Discourtesy: Police Officer Alfredo Alba spoke discourteously to individuals.	
H. An officer	Force: An officer used physical force against § 87(2)(b)	
I. An officer	Force: An officer struck § 87(2)(b) with an asp.	
J. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

### Case Summary

On April 28, 2021, Sgt. Nicholas Colavito of Group 54 called IAB and reported that Manhattan ADA § 87(2)(b) had emailed him the following complaint on behalf of § 87(2)(b). It was received at the CCRB on May 7, 2021, via IAB Log #§ 87(2)(b).

On May 31, 2020, at approximately 10:10 p.m., § 87(2)(b) was bicycling from the Manhattan Bridge to Union Square when he encountered a protest on Broadway between 10<sup>th</sup> and 11<sup>th</sup> Street in Manhattan. The mayoral curfew of June 1, 2020, was not yet in effect. A line of several hundred protesters faced a line of officers. Over a PA system, officers instructed the protesters to leave, or they would be arrested. Then, officers ran toward the protesters. PO Jakub Tarlecki of the 112<sup>th</sup> Precinct shoved an unknown individual to the ground (**Allegation A: Force:** § 87(2)(g)). An unknown officer wrapped their forearm around an unknown male individual's neck and threw him to the ground (**Allegations B and C: Force:** § 87(2)(g)). Sgt. Iran Lopez-Maceda of SRG 2 approached the same unknown male individual, shoved him to the ground (**Allegation D: Force:** § 87(2)(g)) and said, "Put your fucking hands behind your back" (**Allegation E: Discourtesy:** § 87(2)(g)). Sgt. Lopez-Maceda repeatedly told the unknown male individual to put his hands behind his back, and added, "Shut the fuck up" (**within Allegation E**). An unknown officer repeatedly said, "Don't fucking move" (**Allegation F: Discourtesy:** § 87(2)(g)). PO Alfredo Alba of SRG 2 ran toward the crowd and yelled, "Back the fuck up" and "Back up motherfucker" (**Allegation G: Discourtesy:** § 87(2)(g)). On the other side of the street, § 87(2)(b) ran away from the line of officers. An unknown officer grabbed § 87(2)(b)'s bicycle and toppled it over, causing § 87(2)(b) to fall to the ground (**Allegation H: Force:** § 87(2)(g)). The same officer repeatedly struck § 87(2)(b) with a baton on the left side of his upper arm (**Allegation I: Force:** § 87(2)(g)). The same officer lifted § 87(2)(b) off the ground and said, "Get the fuck out of here" (**Allegation J: Discourtesy:** § 87(2)(g)). PO Alba followed a group of unknown individuals and said, "Keep it fucking moving" (**within Allegation G**). An unknown female individual said, "I lost my daughter." PO Alba replied, "Keep it moving. Too fucking bad" (**within Allegation G**). PO Alba spoke to another unknown individual and said, "I'm one you don't want to fuck with right now" (**within Allegation G**). The individual asked why PO Alba was threatening him. PO Alba replied, "Back the fuck up" (**within Allegation G**). § 87(2)(b) walked to his parents' home, then to § 87(2)(b) Hospital. He was diagnosed with a fractured humerus bone and a damaged ulnar nerve. He was not arrested or issued a summons.

The investigation obtained 142 BWC videos related to this incident (BR 01).

### Findings and Recommendations

**Allegation A – Force: Police Officer Jakub Tarlecki struck § 87(2)(b) with a baton.**

PO Tarlecki's BWC footage (BR 02), beginning at 0:17, showed him strike an unknown individual with a baton.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation B – Force: An officer used a chokehold against § 87(2)(b)**

**Allegation C – Force: An officer used physical force against § 87(2)(b)**

### Known facts and general descriptions

Sgt. Lopez-Maceda's BWC (BR 03), beginning at 2:15, showed that approximately 20 feet in front of him, an unknown officer grabbed an unknown male individual around the neck and threw him to the ground. The officer's face and shield were not depicted.

A search of the Complaint Tracking System (CTS) revealed no additional complaints regarding these allegations. Case #§ 87(2)(b) took place in the vicinity of the incident location but was regarding an officer who allegedly struck someone with a police shield. It did not capture any allegations regarding this incident.

A search of Google News and Twitter for media coverage of these allegations yielded negative results.

### **BWC**

142 BWC videos were obtained regarding this incident. Sgt. Lopez-Maceda's BWC (BR 02) was the only footage that depicted the officer grabbing the unknown male around the neck and throwing him to the ground. The footage captured a white male officer nearby with a helmet bearing the number '23242'. A search of this helmet number showed that PO Keynayia Gorman of the 75<sup>th</sup> Precinct, a black female officer, was the only active member of the NYPD with this shield number. The three other members of the NYPD who previously held the same shield number were not members of service at the time of the incident. Sgt. Lopez-Maceda's footage did not capture the shield numbers, helmet numbers, or faces of any other nearby officers, so no potential witness officers could be identified. As per the NYPD Legal Bureau, the officers around the unknown white male did not activate their BWCs.

As per IAB, TARU footage did not save any handheld videos of this incident. A search of the TARU camera list showed that there were no fixed cameras in the area (BR 04, 05).

### **NYPD Documents Reviewed**

A search of the Booking and Arraignment Disposition System (BADS) showed that there were six arrests in the 6<sup>th</sup> Precinct within two hours of this incident (BR 16). Two of them were sealed. One was on the other side of the precinct. For the remaining three arrests, the arresting officers were Det. Damian Rivera of SRG 2 for one arrest, and PO Melinda Gonzalez of SRG 2 for the other two. Det. Rivera's BWC (BR 06), and PO Gonzalez's BWC (BR 07) depicted them arresting people other than the unknown male individual shown in Sgt. Lopez-Maceda's BWC.

The Patrol Borough Manhattan South Detail Roster (BR 08) noted that several hundred officers from 43 commands were assigned to protest details in southern Manhattan on this date. Without additional evidence, the investigation was unable to use this information to identify the victim or the subject officer.

### **Concurrent Investigations**

According to IAB Group 54, IAB reviewed BWC footage of this incident and was unable to identify the subject officer as of March 1, 2022. The IAB case remains open (BR 09). A Chief of IAB Request has been submitted and the results will be added to the case file upon receipt.

### **Ranking Officers**

In Case § 87(2)(b) which captured another part of the same protest, Deputy Commissioner James McCarthy was interviewed (BR 10). He instructed officers to line up across the Broadway at East 12<sup>th</sup> Street, but did not recall who the officers were, whether he instructed them to advance toward the protesters, or if he was even present when officers advanced forward.

### **Officers Interviewed**

Sgt. Lopez-Maceda and PO Alba were interviewed regarding this incident. PO Alba's BWC showed that he was not in the vicinity of the unknown white male. During Sgt. Lopez-Maceda's CCRB interview, he was presented with his own BWC footage. He did not recognize the officer who threw the unknown male to the ground. However, he was able to state that this officer had not been under his command, because he was not wearing a black SRG helmet.

### **Allegation Recitation and Disposition**

As stated above, the investigation did not have evidence to identify the officer that grabbed the unknown male around the neck and threw him to the ground. There was no evidence to identify the unknown white male. As per the NYPD Legal Bureau, neither the officer who grabbed the unknown white male nor the officers immediately around him activated their body-worn cameras. As per TARU, any relevant surveillance footage was not preserved. There was no additional evidence to indicate who the subject officer was § 87(2)(g)

### **Allegation D – Force: Sergeant Iran Lopez-Maceda used physical force against**

§ 87(2)(b)

Sgt. Lopez-Maceda's BWC (BR 0X), beginning at 1:00, showed a crowd of hundreds of officers and civilians. An unknown officer grabbed an unknown male individual and threw him to the ground (see Allegations B and C). At 2:32, another unknown officer grabbed the unknown male and pulled his hands behind his back. The unknown male ran away down the street. Sgt. Lopez-Maceda ran after him and said, "He's under arrest or what?" Sgt. Lopez-Maceda grabbed the unknown male by the shoulder and shoved him, causing him to stumble backwards and fall to the ground.

There was no civilian complaint regarding Sgt. Lopez-Maceda's use of force. As stated above, the investigation was unable to identify the victim.

Sgt. Lopez-Maceda testified that he observed a group of officers attempting to arrest a male and a female individual. The male individual pushed the officers, grabbed the female individual, and tried to pull her away from the officers. This portion, Sgt. Lopez-Maceda testified, was not captured on his BWC. Sgt. Lopez-Maceda activated his BWC, then approached the officers. The male individual stepped to the side as the officers handcuffed the female individual. Sgt. Lopez-Maceda grabbed the male individual by the back and shoulder and pushed him to the ground. He did this because the male individual was being arrested for resisting arrest and disorderly conduct. Sgt. Lopez-Maceda had also seen the male individual resisting before and did not want him to get away. There was no other reason he pushed him.

In situations in which de-escalation is not safe or appropriate, force will only be used to gain control or custody of a subject. In determining whether the use of force is reasonable, members of service should consider the following: 1) the nature and severity of the circumstances, 2) actions taken by the subject, 3) duration of the action, 4) immediacy of the perceived threat or harm to the

subject, members of service, and/or bystanders, 5) whether the subject is actively resisting custody, 6) whether the subject is attempting to evade arrest by flight, 7) the number of subjects in comparison to the number of MOS, 8) the size, age, and condition of the subject on comparison to the MOS, 9) subject's violent history, if known, 9) the presence of hostile crowd or agitators, 10) whether the subject is apparently under the influence of a stimulant or narcotics. Patrol Guide Procedure 221-01 (BR 11).

During this incident, Sgt. Lopez-Maceda was policing a protest in which hundreds of protesters and officers were present. As per the BWC, the unknown male had run away from several officers as they tried to grab his arms before Sgt. Lopez-Maceda pushed him. The unknown male resisted custody and attempted to evade arrest by flight. Sgt. Lopez-Maceda testified that he was arresting the unknown male for resisting arrest and disorderly conduct. § 87(2)(g)

§ 87(2)(g)

**Allegation E – Discourtesy: Sergeant Iran Lopez-Maceda spoke discourteously to**

§ 87(2)(b)

**Allegation F – Discourtesy: An officer spoke discourteously to** § 87(2)(b)

Sgt. Lopez-Maceda's BWC (BR 02), beginning at 2:35, showed that as he shoved the unknown male to the ground, Sgt. Lopez-Maceda yelled, "You're under arrest. Put your fucking hands behind your back." As Sgt. Lopez-Maceda and another officer placed the unknown male into handcuffs, the unknown male said something inaudible. Sgt. Lopez-Maceda replied, "Shut the fuck up." In the background, at 3:05, an unknown officer said "Don't fucking move" two times.

Sgt. Lopez-Maceda testified that he told the male individual "Put your fucking hands behind your back" because he needed to get the male individual's attention and make clear that he was serious. He used the word "fuck" because the male individual had not been listening to the other officers, and to get him under control. Sgt. Lopez-Maceda said "Shut the fuck up" because he wanted to get the male individual's attention to cooperate. There was no other reason he said this.

The NYPD mission includes a promise to treat every citizen with courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR 12). In Disciplinary Case #796247/04 (BR 13) the NYPD held that "when a police officer uses an otherwise impolite word during a stressful encounter where that officer is attempting to maintain control of the situation, the officer's verbal slip does not rise to the level of actionable misconduct."

Sgt. Lopez-Maceda told the unknown male individual to "put your fucking hands behind [his] back" and to "shut the fuck up." As stated above, he was surrounded by civilians and officers in the middle of a large protest. He testified that his statements were made to get the man's attention so that he would cooperate. § 87(2)(b) Sgt. Lopez-Maceda used the word "fuck" in a stressful situation in which he was attempting to maintain control. § 87(2)(g)

§ 87(2)(g) an unknown officer said "Don't fucking move" under the same circumstances, as the officers were placing the man into handcuffs, § 87(2)(g)

§ 87(2)(g)

**Allegation G – Discourtesy: Police Officer Alfredo Alba spoke discourteously individuals.**

PO Alba's BWC footage (BR 14), beginning at 19:00, showed him run toward a crowd of protesters and say, "Back the fuck up. Back up mother fuck-," as the protesters walked away from him. At 22:00, PO Alba ran toward another group of protesters and said, "Back up motherfucker," as they walked away from him. At 22:35, PO Alba followed behind another group of protesters and said, "Keep it fucking moving" as they walked away. An unknown female individual looked at PO Alba and said she had lost her daughter. PO Alba replied, "Keep it moving. Too fucking bad." At 32:00, PO Alba told another unknown male individual, who was asking to go behind police lines to retrieve his bicycle, "I'm one you don't want to fuck with right now." The unknown male asked PO Alba why he had threatened him. PO Alba replied, "Back the fuck up."

There was no civilian complaint regarding this allegation. The investigation did not have evidence to identify the individuals PO Alba used profanity towards.

PO Alba testified that he intentionally used the word "fuck" throughout this incident because he wanted the crowd to comply and leave, and because by using profanity, he prevented the need for him to use force. PO Alba felt the unique and heavy sound of his voice made this a particularly effective alternative to force, because the sound of his voice made people take him more seriously. He said, "I'm not the one to fuck with" to convey that if the unknown male individual crossed the police line, he would be arrested. There were no other reasons he used the word "fuck."

The NYPD mission includes a promise to treat every citizen with courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR 12). In Disciplinary Case #796247/04 (BR 13) the NYPD held that "when a police officer uses an otherwise impolite word during a stressful encounter where that officer is attempting to maintain control of the situation, the officer's verbal slip does not rise to the level of actionable misconduct."

PO Alba used the word "fuck" seven times over the course of this incident. When he told the crowd, "Back the fuck up. Back up mother fuck-," "Back up motherfucker," and "keep it fucking moving," the crowd was already walking away from him. Further, he said, "too fucking bad" and "I'm one you don't want to fuck with." Although the DCT makes an exemption for a verbal slip during a stressful encounter, PO Alba stated that he intentionally used the word "fuck" as a tactic to make the crowd comply. First, PO Alba's language was not a verbal slip but rather a repeated and intentional use of profanity. Second, he used profanity toward protesters who were already complying with his commands. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation H – Force: An officer used physical force against § 87(2)(b)**

**Allegation I – Force: An officer struck § 87(2)(b) with a baton.**

**Allegation J – Discourtesy: An officer spoke discourteously to § 87(2)(b)**

**Known facts and general descriptions**

§ 87(2)(b) testified that an officer pushed him to the ground, struck him with a baton, and said, "Get the fuck out of here." He did not know anyone else at the protest. He did not know the identities of any other victims. He did not obtain any officers' shield numbers. He described the

officer who pushed him to the ground, struck him, and used profanity towards him as an approximately 6'2" uniformed black male in his late-40's with a heavyset build. The investigation had no evidence to indicate who the unknown victims in this case were. § 87(2)(b)'s video recorded a line of officers (BR 15), but when he reviewed it, he could not see the officer who took him to the ground.

A search of the CTS revealed no additional complaints regarding these allegations. Case § 87(2)(b) took place in the vicinity of the incident location but was regarding an officer who allegedly struck someone with a police shield. It did not capture the allegations made by § 87(2)(b).

A search of Google News and Twitter for media coverage of these allegations yielded negative results.

### **BWC**

142 BWC videos were obtained and reviewed regarding this incident. None of these videos depicted § 87(2)(b)'s allegations, as they all appeared to capture the east side of Broadway, not the west.

As per IAB, TARU footage did not save any handheld videos of this incident. A search of the TARU camera list showed that there were no fixed cameras in the area (BR 04, 05).

### **NYPD Documents Reviewed**

A search of the Booking and Arraignment Disposition System (BADs) showed that there were six arrests in the 6<sup>th</sup> Precinct within two hours of this incident (BR 16). Two of them were sealed. One was not in the vicinity of this incident. In the remaining three arrests, the arresting officers were Det. Damian Rivera of SRG 2 in one arrest, and PO Melinda Gonzalez of SRG 2 for the other two arrests. Det. Rivera's BWC (BR 06), and PO Gonzalez's BWC (BR 07) depicted him arresting people other than the male individual shown in Sgt. Lopez-Maceda's BWC.

The Patrol Borough Manhattan South Detail Roster (BR 08) noted that several hundred officers from 43 commands were assigned to protest details on this date. Without additional evidence, the investigation was unable to use this information to identify the victim or the subject officer.

### **Concurrent Investigations**

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### **Ranking Officers**

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### **Officers Interviewed**



Sgt. Lopez-Maceda and PO Alba were interviewed. They testified regarding the allegations depicted in their respective BWC videos. However, neither of them witnessed § 87(2)(b) on a bicycle being taken to the ground and struck with asps.

### **Allegation Recitation and Disposition**

The investigation did not have evidence to indicate which officer allegedly pushed § 87(2)(b) struck him with a baton, and said, “Get the fuck out of here.” As per the NYPD Legal Bureau, the officers who were present did not activate their body-worn cameras. As per TARU, any surveillance footage was not preserved. There was no additional evidence to indicate which officers were present or who the alleged victims were.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Sgt. Lopez-Maceda has been a member-of-service for 20 and has been a subject in five CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)
- PO Alba has been a member of service for 18 years and has been a subject in three CCRB cases and eight allegations, of which one was substantiated.
  - Case #200615469 involved a substantiated allegation of Retaliatory Summons against PO Alba. The NYPD imposed a discipline of Command Discipline A.

### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of February 23, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 17).
- § 87(2)(b)

Squad: 6

Investigator:	<u>SI Muir</u>	<u>Supervising Investigator Muir</u>	<u>03.03.2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Jessica Peña</u>	<u>IM Jessica Peña</u>	<u>3/3/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date